

# JOURNEY TO SELF-SUFFICIENCY & ENERGY SECURITY (PART I) DOMESTIC CRUDE SUPPLY OBLIGATION

## PREFACE

The Petroleum Industry Act 2021 (**PIA**) empowers the Nigerian Upstream Petroleum Regulatory Commission (the **Commission**) to allocate petroleum production quotas in order to ensure the availability of petroleum for domestic use, as well as for the purpose of curtailing export of petroleum from Nigeria. In this regard, the PIA confers authority on the Commission to impose domestic crude oil supply obligations (**DCSO**) on lessees of upstream petroleum operations. Further to its mandate under the PIA, the Commission has issued the Production Curtailment and Domestic Crude Oil Supply Obligation Regulations, 2023 (the **Regulations**) and the Guidelines for the Operationalisation of Domestic Crude Oil Supply Obligation, 2024 (the **Guidelines**) (together with the PIA, the **DCSO Framework**). The objective is clear - to strike a balance between the operational needs of the domestic market while safeguarding the commercial interests of the lessees.

In this post, we focus on the key provisions relating to the DCSO Framework, its implementation, and compliance requirements under Nigerian law.

## KEY PROVISIONS

### MEANING OF DCSO

The DCSO refers to an obligation imposed on upstream crude oil producers (**Oil Producers**) to dedicate a portion of their crude oil production for supply to domestic refineries before Oil Producers can export crude oil. The DCSO is a firm obligation such that where crude oil production by an Oil Producer for any given quarter drops, the Oil Producer must first fulfil its obligation to supply to the domestic market before any export may be permitted by the Commission except there is no demand by any refinery licence holder in that quarter.

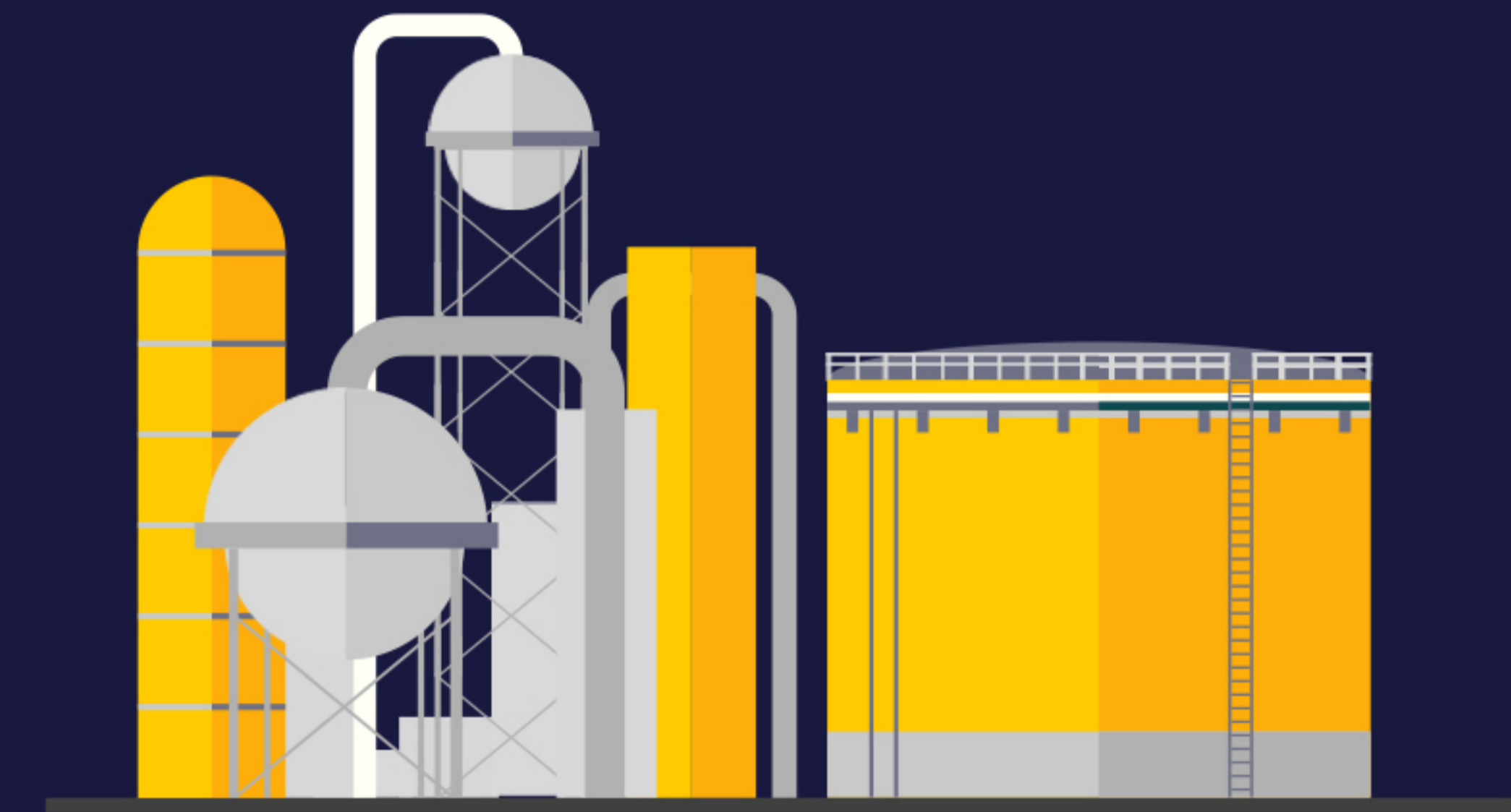
*Section 109 (2) & 318 of the PIA, Regulation 15 of the Regulations*



# KEY PROVISIONS

## APPLICATION AND SCOPE

The DCSO applies to all Crude Oil Producers, including those engaged in joint venture and production-sharing arrangements. This means that both incorporated and unincorporated joint ventures are covered by the obligation. In fulfilling its DCSO, a Crude Oil Producer can only sell crude oil to holders of valid crude oil refining licences whose refineries are operational. Further, the refineries must be capable of processing the allocated volumes since volumes are allocated based on need. This ensures that only legitimate, functioning refineries benefit from the domestic crude supply as well ensuring that the committed crude oil does not exceed the requirements of the domestic market.



*Section 109(4) of the PIA, Regulation 10(1) of the Regulations*

## PURPOSE AND OBJECTIVES

The main goals of the DCSO Framework are to:

- a** Ensure predictable and stable feedstock availability for domestic refineries;  

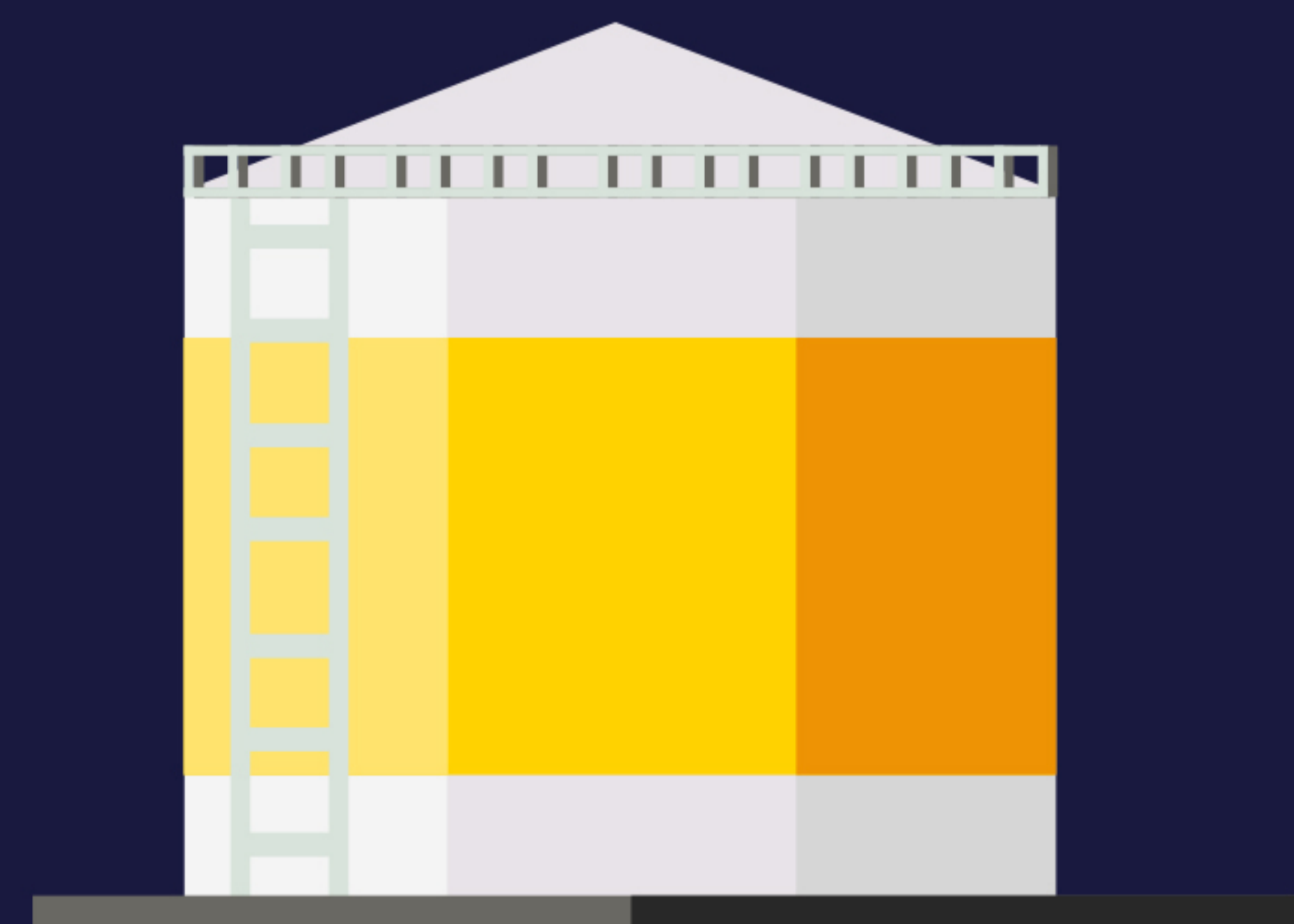
- b** Ensure the optimal utilisation of domestic refining capacity, thus promoting the growth of Nigeria's local petroleum sector; and  

- c** Enhance energy security by reducing reliance on foreign refined products and creating a robust domestic energy market.  


## PUBLICATION AND NOTIFICATION OF DCSO REQUIREMENTS

The Commission is required to publish, every 1<sup>st</sup> January and 1<sup>st</sup> July, information relating to *inter alia* operational refineries and their daily crude oil requirements as well as production forecast of each Crude Oil Producer and their respective crude specification.

The Commission is also required to ensure that refinery licence holders are notified of: (a) the Crude Oil Producers on whom the DCSO is imposed for each quarter; (b) the volume of crude oil allocated to each Crude Oil Producer; (c) the quality of the allocated volume; and (d) potential offtake location for the allocated volume.



*Regulation 10 of the Regulations*

*Regulation 17 of the Regulations*

# KEY PROVISIONS

## VOLUNTARY COMMERCIAL NEGOTIATIONS FOR CRUDE OIL SALE TO REFINERIES

Generally, the sale of crude oil pursuant to the DCSO shall be based on mutual commercial negotiations between the relevant Crude Oil Producers and refineries. The **sale should be conducted at prevailing international market prices** for similar grades of crude oil and also taking into consideration the Commission's fiscal oil price differentials, thereby facilitating fair and healthy competition in the domestic market. Payment for the crude shall be in USD or Naira, as agreed.



*Section 109(4)(c) of the PIA, Regulation 10 (5) of the Regulations*

## TREATMENT OF SHORTFALL IN CRUDE OIL SUPPLY

In the case of a shortfall in supply of crude oil, the Commission will issue a Request for Quotation (**RFQ**) inviting Crude Oil Producers to submit a quote for the supply of any volumes still required by the refineries. Upon receipt, the quote shall be forwarded to the affected refinery so that parties can finalise negotiations and execute a sale contract.

Where there is no consequential supply contract or the contracted quantities are insufficient, or where unreasonable obligations are being demanded of the refinery by the Crude Oil Producer, the Commission shall impose an obligation on Crude Oil Producers to supply the volume (unless the issues arising are due to the unreasonable behaviour on the part of the refiner).



*Regulation 12 (3)-(5) of the Regulations*

## KEY COMPLIANCE REQUIREMENT

Crude Oil Producers are mandated to submit to the Commission a monthly report detailing production performance and volumes sold domestically and those exported. The report shall clearly account for crude oil sales, including the volume, price, and destination of the crude, as well as the transportation logistics presumably to aid the Commission to closely track and account for compliance with production quotas and the DCSO.



**MONTHLY VOLUMES**

*Regulations 16 of the Regulations*

# KEY PROVISIONS

## LEGAL AND REGULATORY CONSIDERATIONS

In determining the DCSO for any lessee, the Commission will consider:



The proximity and accessibility of the supply location to the refiner's location; and



Suitability of the licensee or lessee's crude specification to the grade requirements for domestic supply.

Additionally, where more than one licensee or lessee meets these requirements, in imposing the DCSO on each Crude Oil Producer, the Commission will take into account the following:

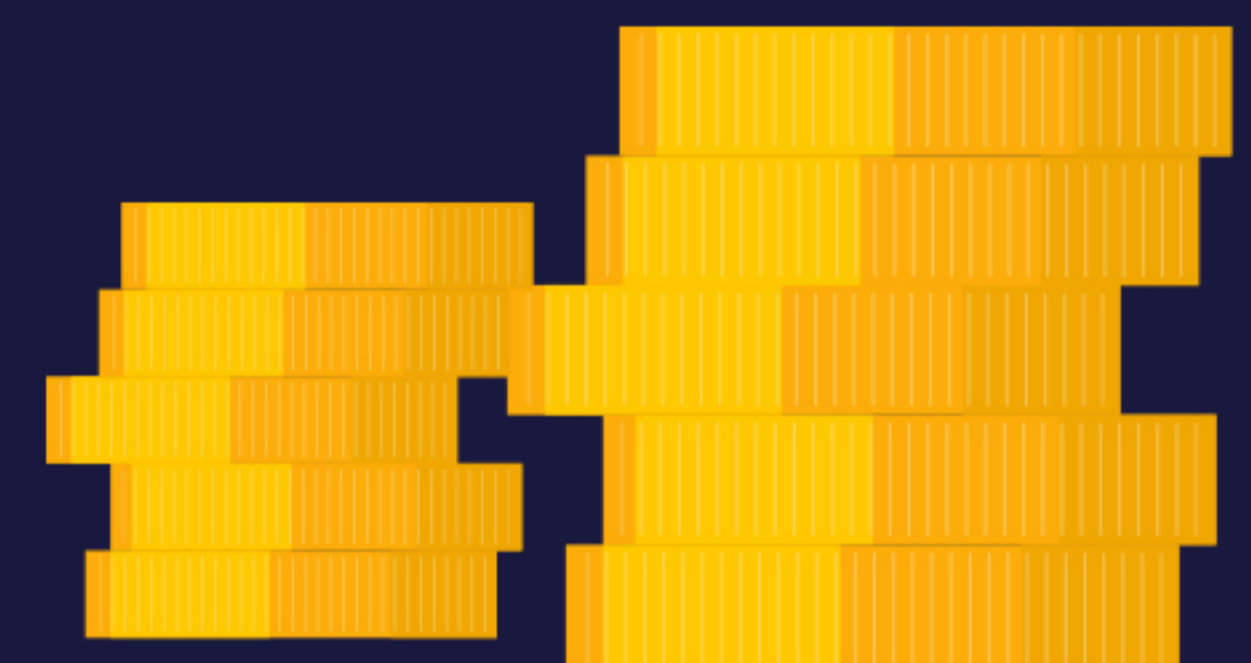
Existing refinery supply contracts of the Crude Oil Producer;



Existing crude export contracts of the Crude Oil Producer; and



The Crude Oil Producer Technical Allowable Rate and production quota.



*Regulation 13 of the Regulations*

## PENALTY FOR NON-COMPLIANCE

If a Crude Oil Producer fails to meet its DCSO, it will be subject to a penalty of 15% of the fiscal price per barrel of the volume imposed further to its DCSO. However, the penalty will not be imposed where the failure of a Crude Oil Producer to deliver its DCSO volumes under a supply contract arises from:

The occurrence of a force majeure event;



A default of the refiner, under the crude supply agreement; or



other reasons as may be deemed acceptable by the Commission.



*Regulation 18(2) of the Regulations, Paragraph 5 of the Guidelines*

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